

CHAPTER NO. 845

HOUSE BILL NO. 2209

By Representative Winningham and Mr. Speaker Naifeh and Representatives Ferguson, Windle, Fowlkes, Coleman, Briley, Curtiss, Matheny, Hackworth, West, Towns, Davidson, McMillan, Bone, Rinks, Hargrove, Patton, Maddox, Fitzhugh, Head, Tindell, Kent, McKee, Newton, Sargent, Harrison, Overbey, Eldridge, Hagood, Harwell, Brenda Turner, Russell Johnson, Baird, Crider, Walker, Dunn, Harry Brooks, Kent, Todd, Litz, Shaw, West, Yokley, Ulysses Jones, Hood, Black, Stanley, Lynn, Stontany, Pinion, Harmon, Fraley, Langster, Cobb, Gresham, Odom, Maddox, Brown, Patton, Mumpower, McDonald, Wood, Hensley, DuBois, Pleasant, Buttry, Phillip Johnson, Montgomery, Roach, Tidwell, Garrett, Shepard, Vincent, Vaughn

Substituted for: Senate Bill No. 2143

By Senators Kilby, Burks, Jackson, Cooper, Kurita, McLeary, Fowler, Herron, Williams

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 7, Part 3 and Title 39, Chapter 17, Part 4, relative to certain controlled substances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(c), is amended by adding the language "or methamphetamine" after the word "cocaine" wherever it appears.

SECTION 2. Tennessee Code Annotated, Section 39-17-417(i)(10), is amended by deleting the language "One hundred (100)" and substituting in its place the language "Twenty-six (26)".

SECTION 3. Tennessee Code Annotated, Section 39-17-417(j)(10), is amended by deleting the language "One thousand (1,000)" and substituting in its place the language "Three hundred (300)".

SECTION 4. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following language as a new section:

§ 39-17-434.

(a) It is an offense for a person to possess, whether acquired through theft or other means, any substance, with the intent to:

(1) Use such substance in the manufacture of a Schedule I or Schedule II controlled substance; or

(2) To knowingly convey such substance to another for use in the manufacture of a Schedule I or Schedule II controlled substance.

(b) In determining whether a particular substance is possessed with the intent required to violate subsections (a)(1) and (2), of this section, the court or other authority

making such a determination shall, in addition to all other logically relevant factors, consider the following:

(1) Statements by the owner or anyone in control of the substances concerning its use;

(2) Prior convictions, if any, of the owner or of anyone in control of the substance for violation of any state or federal law relating to the sale or manufacture of controlled substances;

(3) Instructions or descriptive materials of any kind accompanying the substance or found in the owner or controlling person's possession concerning, explaining, or depicting its use;

(4) The manner in which the substance is displayed or offered for sale;

(5) The quantity and location of the substance considered in relation to the existence and scope of legitimate uses for the substances in the community; and

(6) Expert testimony concerning the substance's use.

(c) This section shall not apply where possession was by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess the controlled substance in question.

(d) Violation of this section is a Class E felony.

SECTION 5. This act shall take effect July 1, 2004, the public welfare requiring it.

PASSED: May 21, 2004


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 7th day of June 2004


PHIL BREDESEN, GOVERNOR